HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT APPEAL No.559 of 2006

Between:

P. Malyadri, S/o. P. Narasimha Rao,

Aged about 32 years, V.R. Kota,

Lingasamudram Mandal, Prakasam District,

I.D.Card No.AP 181170084216

& 117 others.

… Appellants

AND

The Government of Andhra Pradesh,

rep., by its Secretary, Panchayat Raj,

Secretariat, Hyderabad & 6 others.

… Respondents

Counsel for the appellants : Mr. T. Rajendra Prasad.

Counsel for respondent Nos.1&4 : Government Pleader for Panchayat Raj & Rural Development Authority

Counsel for respondent No.2 : Mr. K.G.K. Prasad

Counsel for respondent No.3,5 &6 : Government Pleader for Revenue

Counsel for respondent No.7 : Mr. M. Prabhakar Rao

Counsel for the implead respondents: Mr. V. Brahma Reddy

Dated the 09th June, 2006

: ORDER :

PER G.S. SINGHVI, CJ.

This appeal is directed against order dated 01-06-2006 passed by the learned Single Judge in WPMP.No.11943 of 2006 in W.P.No.9438 of 2006.

We have heard Sri T. Rajendra Prasad, counsel for the appellants, learned Government Pleader for Panchayat Raj for respondent Nos.1 and 4, Sri K.G.K. Prasad for respondent No.2, learned Government Pleader for Revenue for respondent Nos. 3, 5 and 6, Sri Brahma Reddy, counsel for Mannam Mylaydri and Patibandla Srinivasa Rao, who have filed implead petition in the main writ petition as also application for vacating ad-interim order dated 28-04-2006.

The grievance made by the appellants is that ad-interim order dated 28-04-2006 passed by the learned Single Judge which had the effect of allowing them to participate in the forthcoming Panchayat elections has been modified in terms of

common order dated 01-06-2006 passed in W.P.No.10574 of 2006 and batch without giving reasonable opportunity of hearing to their advocate. Sri Brahma Reddy, learned counsel, appearing for the two applicants who had applied for their impleadment as parties submits that the court may not interfere with the modified interim order because the earlier order was obtained by the appellants by suppressing material facts.

Learned Government Pleader complains that the ad-interim order dated 28-04-2006 was passed on the last date before summer vacation without giving the official respondents adequate opportunity to represent their cause.

We have considered the respective submissions. In our opinion the order under challenge is liable to be set aside with the direction that the main petition filed by the appellants be listed before the Single Bench along with the implead petition as well as vacate petition filed by Sri Brahma Reddy. In our opinion without passing appropriate order on the applications filed by Sri Brahma Reddy, the learned Single Judge could not have *suo motu* modified order dated 28-04-2006 simply because in some other matter a different order was made on that day. In our view the appellants were entitled to a reasonable opportunity of being heard before the earlier order dated 28-04-2006 could be modified. In the premise aforesaid, the appeal is allowed. Order dated 01.06.2006 impugned in this appeal is set aside with the direction that Writ Petition No.10457 of 2006 be laid before the learned Single Judge on 13-06-2006. The implead petition and vacate petition filed by M. Mylaydri and P. Srinivasa Rao be registered and listed before the learned Single Judge on 13-06-2006, who is requested to decide the same. It will be open to the learned Single Judge to hear the arguments on merits of the appellants' prayer for grant of stay and pass appropriate order uninfluenced by ad-interim order dated 28-04-2006 and the fact that the stay order was modified on 01-06-2006.

G.S. SINGHVI, CJ

June 09, 2006

G.V. SEETHAPATHY, J

ES/GRR/SVS